

Atty. Dkt. No. 041673-2053

REMARKS

Applicants respectfully request reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

Applicants' response of January 31, 2005 to the species election requirement is objected to on the basis that "[t]he claims do not read on NGF delivery because the claims explicitly recited that the nervous system growth factor is to be delivered to...neurons in 'cortical tissues containing trkB receptors'" and "NGF binds to the trkA receptor, not the trkB receptor."

Applicants respectfully disagree. The claims do not require that the recited nerve growth factor bind to the trkB receptor. Rather, the reference to the presence of trkB receptors in the claims defines the identity of the tissues to which neurotrophins are directed according to the invention. Those tissues are ones which contain trkB receptors, but will inherently also contain receptors, such as trkA, which bind other neurotrophins. In the case of BDNF and NT-4/5, the neurotrophin delivered according to the invention may bind trkB receptors present in the tissue, while in the case of NGF and other neurotrophins, other receptors may be bound. Therefore, the provisional election of NGF as a species for examination is commensurate with the scope of the present claims.

Applicants further confirm their position that the requirement for an election between species of neurotrophins is inappropriate in this application. The invention as claimed does not depend on the particular identity of neurotrophin used, and no claims to the neurotrophin composition itself is presented. The neurotrophins whose use is exemplified in the application are all well-characterized, and share structural as well as functional homologies that will be familiar to those of ordinary skill in the art in selecting a neurotrophin for use in the invention.

No undue burden as to searching the art is imposed by the claims as now presented, as is evidenced by the fact that claims of comparable scope have been prosecuted and allowed without restriction as between neurotrophin species in several co-pending applications filed by the same inventor and assignee, including Serial Numbers 09/060,543; 09/621,074; 09/730,790;

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10/748,337; and 10/032,952. All of these applications include claims, many of which have been allowed and issued, which extend to methods for delivery of nervous system growth factors including, without limitation, NGF, NT-4/5, NT-3, BDNF and GDNF.

Reconsideration and withdrawal of the restriction requirement imposed in this application is therefore again respectfully requested.

Applicant believes that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 50-0872. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 50-0872. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 50-0872.

Respectfully submitted,

Date

4/26/2005

By



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